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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,844	12/09/2003	Robert W. King	410027-32	5229

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Fulwider Patton Lee & Utecht LLP  
Atten: Alan C. Rose  
Howard Hughes Center  
Tenth Floor 6060 Center Drive  
Los Angeles, CA 90045

EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/730,844

**Applicant(s)**

KING, ROBERT W.

**Examiner**

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the fourth office action for application number 10/730,844, Simplified Pipe Support Assembly, filed on December 9, 2003.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6, 7, 11-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,543,731 to Mercier in view of U.S. Patent D408,273 to Senninger, in further view of U.S. Patent D417,141 to Senninger, hereinafter, Senninger '141 and in further view of U.S. Patent 3,747,166 to Eross. Mercier discloses a system for mounting plastic pipes, comprising: a hollow plastic support pipe (16) having an outer diameter; first and second plastic fittings each including a base portion (19) having openings for receiving screws or nails, and an integral partially open portion (18) for receiving the hollow plastic support pipe; a double plastic clip fitting (21) having a first tubular portion (22) for mounting on the hollow plastic support pipe, and a second integral, partially open, snap-on clip portion (23) for receiving a fluid flow system pipe (11); and the snap-on clip portions (23) being partially open and having outwardly extending jaws, the space between the jaws having an extent slightly less than the outer diameter of the fluid flow system pipe; whereby the support pipe may be cut to a length slightly less than the distance between two studs (13), the base portion (19) of the fittings may be secured in place on the studs, the support pipe positioned in the open portion, and the clip fitting snapped onto the fluid flow system pipe to simply and

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securely hold the fluid flow system pipe in place; wherein at least one of the pipes is bonded to one of the clips by plastic solvent (Col. 2, line 4ff); wherein the pipes and fittings are formed of PVC (Col. 2., line 5); wherein the open space between the jaws are of a predetermined value; and wherein the axial extent of the jaws is greater than the outer diameter of the fluid pipe.

Mercier discloses the claimed invention except for the limitation of first and second snap fittings. Senninger teaches that it is known to have a snap fitting having a base portion including openings for receiving a nail or screw and an integral open snap-on clip portion for receiving a pipe. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the fittings in Mercier to have included the fitting as taught by Senninger for the purpose of providing an alternative, mechanically equivalent fitting for supporting the hollow plastic support pipe between a pair of studs and for providing a fitting wherein the hollow plastic support pipe is readily and easily removable from between the studs.

Mercier combined with Senninger disclose the claimed invention except for the limitation of a double snap-on plastic clip fitting. Senninger '141 teaches that it is known to have a double snap-on plastic clip fitting having a first partially open snap-on clip portion for receiving a pipe and a second integral, partially open, snap-on clip portion arranged non-parallel to the first partially open snap-on clip portion for receiving another pipe. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the system in Mercier combined with Senninger to have included the double snap-on plastic clip fitting as taught by Senninger '141 for the

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purpose of providing a fitting that it easily attached and removed from plural supported/supporting objects.

Mercier combined with Senninger and Senninger '141 disclose the claimed invention except for the limitation of the space between the jaws being defined by a rectangular portion transitioning into an arcuate bend in each jaw. Eross teaches a system having a double snap-on plastic clip fitting having a outwardly extending jaws (13), a space between the jaws and wherein the space between the jaws is defined by a rectangular portion transitioning into an arcuate bend in each jaw. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the fitting in Mercier combined with Senninger and Senniger '141 to have included the fitting as taught by Eross for the purpose of providing an aesthetically different appearance to the fitting for better holding an object therein.

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mercier combined with Senninger, Senninger '141, and Eross and in further view of U.S. Patent 5,288,047 to Pan. Mercier combined with Senninger and Senninger '141 disclose the claimed invention except for the limitation of the two snap-on clip portions of the double fitting are of different sizes. Pan teaches a double snap-on plastic clip (1) having a first partially open snap-on clip portion (11) and a second integral, partially open, snap-on clip portion (12), and wherein the two snap-on clip portions of the double fitting are of different sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the snap-on plastic clip in Mercier combined with Senninger and Senninger '141 to have included a double snap-

on plastic clip as taught by Pan for the purpose of providing a fitting that it easily attached and removed from plural supported/supporting objects having different diameters. It would have been obvious to one having ordinary skill in the art to have the space and the axial extent of the jaws to have been about three-quarters of the diameter of the pipe and greater than one-half the diameter, respectively, for the purpose of providing an aesthetically different support and since such a modification would not have produced any unexpected results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senninger in view of Eross. Senninger discloses a support or fitting comprising a base portion having holes there through for receiving nails or screws, a snap-on clip portion of generally circular configuration for receiving a pipe having a predetermined outer diameter; the snap-on portion being partially open and having outwardly extending U-shaped jaws; the space between the jaws being slightly less than the outer diameter; the base portion of the snap-on clip portion being integrally molded. Senninger discloses the claimed invention except for the limitations of the support being plastic and the space between the jaws being about three-quarters or one-half the outer diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the support in Senninger to have been plastic since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Senninger discloses the claimed invention except for limitation of the space between the jaws being about three-quarters or one-half of the outer diameter. It would have been an obvious to have modified the spacing between the jaws in Senninger to have been a certain dimension for the purpose of accommodating a pipe having a predetermined diameter and, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Senninger discloses the claimed invention except for the limitation of rectangular shape leading to an arcuate shape of the jaws. Eross teaches a system having a double snap-on plastic clip fitting having a outwardly extending jaws (13), a space between the jaws and wherein the space between the jaws is defined by a rectangular portion transitioning into an arcuate bend in each jaw. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the fitting in Senninger to have included the fitting as taught by Eross for the purpose of providing an aesthetically different appearance to the fitting for better holding an object therein.

### ***Response to Arguments***

Applicant's arguments filed December 28, 2004 have been fully considered but they are not persuasive.

In regards to applicant's arguments that none of the references addresses the clip-on action or the strength of the holding action, the clips in the above mentioned reference all appear to be constructed of plastic materials, it is well known that plastic

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materials have a predetermined degree of flexibility and resiliency which would evoke a clip-on type of action between the clip and the object to be held. If they pipes/objects are slid into the clip as applicant suggest, there would be no structural need for the gap between the jaw members of the clip, the holding means would more than likely be some type of ring that produces a snug-fit in relation to the object.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

February 3, 2005